

REMARKS

Claims 1-11 are currently pending in this application. Claims 8-10 were withdrawn by the Examiner following Applicant's election in response to a restriction requirement. Claims 1, 6 and 8 have been amended to include the subject of claim 12, which has been cancelled. In view of the foregoing amendments and the following remarks, it is respectfully submitted that the claims are allowable and application should be passed to issue.

Patentability under 35 U.S.C. § 103(a)

Claims 1-7, 11 and 12 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Shimamura et al. WO 03/079469 (referencing English language equivalent US 2005/0287439) in view of Nakamoto (JP 200-173612) and newly cited reference Kawakami (US 6,730,434). Applicant respectfully disagree with the rejections.

In an effort to expedite prosecution, claims 1 and 6 have been amended to recite, in pertinent part, **“wherein, the film is formed in an atmosphere including an inert gas, and the atmosphere is free of nitrogen.”** At a minimum, none of the cited references teach or suggest the aforementioned claimed feature of amended claims 1 and 6.

On page 5 of the Office Action mailed on June 9, 2011, (“the office action”) it is conceded that neither Shimamura nor Nakamoto disclose the inert gas is free of nitrogen as formerly recited in claim 12 and now recited in claims 1 and 6. However, it is asserted in the office action that Kawakami teaches the grinding step of preparing an anode material is in an inert atmosphere such as argon. Based on this disclosure, it is concluded “when the inert atmosphere comprises argon, said atmosphere is free of nitrogen.” However, as disclosed in col. 12, lines 21-23, Kawakami allows using nitrogen gas as the inert atmosphere. Therefore, it is clear that Kawakami fails to teach or suggest a configuration in which the inert atmosphere is

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free of nitrogen, as claimed. As explained in the specification, on page 14, line 9-12 nitrogen may cause formation of silicon nitrides. Thus, none of the cited references teach or suggest all of the claimed features.

Accordingly, it is respectfully submitted that claims 1 and 6 and respective dependent claims 2-5, 7 and 11 are allowable over the cited references.

In view of the above amendments and remarks, Applicants respectfully submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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